

Message Text

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ACTION EUR-12

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R 191030Z JUL 78
FM USMISSION USBERLIN
TO AMEMBASSY BONN
INFO SECSTATE WASHDC 7307
AMEMBASSY LONDON
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 1711

E.O. 11652: GDS
TAGS:PGOV, BQG, AKB
SUBJECT: ARMING OF INDIVIDUALS AND PRIVATE GUARDS

REF: (A) BONN 12268 AND PREVIOUS, (B) USBERLIN 1489 AND
PREVIOUS, (C) STATE 140426 AND PREVIOUS.

SUMMARY: UNDER INSTRUCTIONS FROM BONN, THE BRITISH MISSION
HAS COME UP WITH A PROPOSED MEANS OF ARMING TRIAL OFFICIALS
AND BODYGUARDS OF OTHER ENDANGERED PERSONS, WITHOUT AMENDING
OR ERODING KEY ALLIED LEGISLATION. BRITISH, FRENCH AND US
REPRESENTATIVES IN A DISCUSSION ON 18 JULY AGREED THAT FROM
A LEGAL STANDPOINT ARMING OF JUDGES AND PROSECUTORS SEEMS
PLAUSIBLE. VIEWS DIFFER ON THE QUESTION OF ARMED GUARDS.
IT WAS AGREED THE MISSIONS WILL INFORM THEIR EMBASSIES IN
BONN OF THE DISCUSSION AND CONSIDER THE MATTER AGAIN AT A
LATER DATE, INCLUDING THE POSSIBILITY OF SEPARATING OUT
THE "SPRINGER PROBLEM." IT EMERGED IN THE COURSE OF THE
18 JULY DISCUSSION THAT ONE IMPORTANT CATEGORY OF
ENDANGERED TRIAL PERSONNEL, COURT-APPOINTED DEFENSE
LAWYERS, MAY NOT BE ELIGIBLE UNDER THE PROVISIONS
ENVISAGED IN THE BRITISH PROPOSAL TO CARRY ARMS. END
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SUMMARY.

1. THE BRITISH MISSION ON 11 JULY PROVIDED US WITH ITS
LATEST THINKING REGARDING WAYS TO PERMIT THE ARMING OF
INDIVIDUALS INVOLVED IN THE BERLIN TERRORIST TRIALS AND
OF THE PERSONAL BODYGUARDS OF CERTAIN OTHER ENDANGERED
PERSONS. AT BONN'S DIRECTION, THIS IS TO BE ACCOMPLISHED

WITHOUT AMENDMENT TO, OR "UNACCEPTABLE EROSION" OF, EXISTING ALLIED FOUR-POWER LEGISLATION. THE BRITISH FEEL, AFTER REFLECTION, THAT IT WOULD BE POSSIBLE TO ARM THOSE INVOLVED IN THE TRIALS BY TREATING THEM AS "LOCAL AUTHORITIES" FOR THE PURPOSES OF ARTICLE 5 OF CONTROL COUNCIL ORDER NO. 2, AND TO ALLOW PERSONAL BODYGUARDS TO BE ARMED PROVIDED THE LATTER ARE ENROLLED AS MEMBERS OF THE FREIWILLIGE POLIZEI RESERVE (FPR).

2. SINCE NO AMENDMENT TO ALLIED LEGISLATION WOULD BE INVOLVED, A LETTER FROM THE PUBLIC SAFETY COMMITTEE IN RESPONSE TO A FORMAL REQUEST FOR THE SENAT WOULD BE THE APPROPRIATE VEHICLE. THIS LETTER WOULD DEFINE AS NARROWLY AS POSSIBLE THE CATEGORIES TO BE ARMED.

3. THE BRITISH MISSION ALSO CIRCULATED THE TEXT OF SUCH A DRAFT LETTER, INTENDED TO PROVIDE A BASIS FOR DISCUSSION HERE AMONG THE ALLIES. THE LETTER STIPULATES THAT DURING THE TERRORIST TRIALS MEMBERS OF THE JUDICIARY, STAATS-ANWALTSCHAFT, BUDESANWALTSCHAFT, AND COURT-APPOINTED DEFENSE LAWYERS IN ENDANGERED CATEGORY (GEFAHRDUNGSSTUFE) NUMBER ONE MAY BE AUTHORIZED TO BEAR ARMS UNDER PARAGRAPH 5 OF CONTROL COUNCIL ORDER 2. FIREARMS AND AMMUNITION WOULD BE PURCHASED BY THE DEPARTMENT OF THE SENATOR FOR JUSTICE, IN THE SAME MANNER AS FOR THE PRISON SERVICE, AFTER APPLICATION THROUGH THE POLICE TO THE PUBLIC SAFETY

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COMMITTEE FOR ALLIED KOMMANDATURA LICENSES. ISSUANCE OF WAFFENBESITZKARTEN AND WAFFENSCHNEIDER WOULD BE SUBJECT TO PUBLIC SAFETY COMMITTEE APPROVAL (SIMILAR TO THE PROCEDURE GOVERNING FIREARMS PERMITS FOR MONEY TRANSPORT GUARDS). OTHER PERSONS OUTSIDE THE PUBLIC SERVICE BUT FALLING UNDER GEFAHRDUNGSSTUFE NUMBER ONE COULD MAKE ARRANGEMENTS FOR EMPLOYEES ENGAGED SOLELY FOR THEIR PERSONAL PROTECTION TO CARRY FIREARMS ON A LIMITED BASIS. MEMBERSHIP IN THE FPR WOULD BE A PREREQUISITE FOR THIS. FIREARMS AND WEAPONS AUTHORIZED WOULD BE ISSUED FROM POLICE STOCKS. (THE BRITISH SUGGEST THAT PROCEDURES BE WORKED OUT BETWEEN PUBLIC SAFETY ADVISERS AND THE POLICE ONCE AGREEMENT IN PRINCIPLE HAS BEEN REACHED AMONG THE ALLIES.)

4. REPRESENTATIVES OF THE BRITISH, FRENCH AND US CIVIL AFFAIRS, LEGAL AND PUBLIC SAFETY COMMITTEES MET ON 18 JULY UNDER THE CHAIRMANSHIP OF THE BRITISH POLITICAL ADVISER TO DISCUSS THESE PROPOSALS. THERE SEEMED TO BE A READY CONSENSUS THAT ARMING OF JUDGES AND PROSECUTORS WOULD RAISE NO MAJOR LEGAL QUESTION, SHOULD IT BE DECIDED FOR POLITICAL REASONS TO PROCEED WITH SUCH A STEP. A PREFERENCE WAS ALSO GENERALLY EXPRESSED, MOST STRONGLY

ON THE FRENCH PART, FOR NOT CHANGING OR SERIOUSLY
TAMPERING WITH EXISTING FOUR-POWER LEGISLATION.

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C O N F I D E N T I A L SECTION 2 OF 2 USBERLIN 1711

5. OPINIONS VARIED OVER WHETHER COURT-APPOINTED DEFENSE
LAWYERS CAN BE CONSIDERED IN A CATEGORY WITH JUDGES AND
PROSECUTORS BUT LEANED TOWARD THEIR EXCLUSION. THE
BRITISH LEGAL ADVISER FELT THEY DID NOT. THE FRENCH
REPS FELT THAT PRACTICE IN FRANCE MIGHT SUGGEST OTHER-
WISE. HOWEVER, IT WAS RECALLED THAT WHEN THE QUESTION
OF INSURING THE BERLIN COURT-APPOINTED DEFENSE LAWYERS
HAD ARISEN, PRIVATE RATHER THAN PUBLIC SERVANT-TYPE
COVERAGE WAS CHOSEN.

6. US AND BRITISH REPS EXPRESSED STRONG INTEREST IN
ARMING PRIVATE GUARDS OF CATEGORY ONE PERSONS, BUT THE
FRNECH VOICED RESERVATIONS. (THE FRENCH REPS SEEMED
UNCERTAIN AS TO HOW FAR DISCUSSION OF THE QUESTION OF
PERMITTING PRIVATE ARMED GUARDS HAD PROGRESSED IN THE
BONN GROUP.) THE QUESTION OF USING FPR MEMBERSHIP AS
"COVER" WAS DISCUSSED INCONCLUSIVELY.

7. THE US CIVIL AFFAIRS COMMITTEE REP SUGGESTED THAT,
FROM A POLITICAL STANDPOINT, THE OPTIMUM SOLUTION WOULD
BE TO PERMIT ALL THOSE IN ENDANGERED CATEGORY ONE
WISHING TO DO SO TO CARRY A WEAPON AND/OR EMPLOY PRIVATE
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ARMED GUARDS. SECOND BEST, AND PROBABLY MORE ATTAINABLE, WOULD BE THE ARMING OF TRIAL PERSONNEL AND OF BODYGUARDS OF OTHER ENDANGERED PERSONS. IF THIS WAS NOT POSSIBLE, ARMING OF JUDGES AND PROSECUTORS MIGHT BE PREFERABLE TO NOTHING, ALTHOUGH WOULD LEAD TO FURTHER PRESSURES.

8. THE BRITISH POLAD FELT THAT AN INITIAL ARMING PACKAGE SHOULD INCLUDE PROVISION FOR PRIVATE GUARDS. HE FEARED THAT IT WOULD BE DIFFICULT TO REOPEN THIS MATTER SUBSEQUENTLY. THE FRENCH REPS VOICED A PREFERENCE FOR TAKING ONE STEP AT A TIME.

9. ALL AGREED TO INFORM THEIR RESPECTIVE EMBASSIES IN BONN OF THE DISCUSSION AND TO THINK OVER THE QUESTIONS RAISED FOR A FURTHER EXCHANGE OF VIEWS. THE BRITISH POLAD STRESSED THAT THE ALLIES SHOULD TRY TO REACH SOME FORM OF AGREEMENT ON WHAT THEY WOULD BE PREPARED TO DO (IF ANYTHING) SHOULD EVENTS CAUSE THE SENAT TO RENEW ITS REQUEST.

10. REQUEST FOR ACTION: MISSION WOULD APPRECIATE EMBASSY'S VIEWS AND ASSESSMENT OF OTHER BONN GROUP MEMBERS' CURRENT FEELINGS (TAKING INTO ACCOUNT THIS LATEST EFFORT BY THE BRITISH TO SPUR ACTION), ESPECIALLY TOWARDS:

A. PROSPECTS FOR MOVING AHEAD WITH SOME FORM OF ARMING PACKAGE; AND

B. SEPARATING OUT THE "SPRINGER PROBLEM" (FOR POSSIBLE LATER EFFORTS) IF ARMING OF BODYGUARDS IS A STUMBLING BLOCK.

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11. COMMENT: WE SEE SOME ADVANTAGE TO MOVING AHEAD WITH JUDGES AND PROSECUTORS, IF SUCH ARE THE LIMITES OF FRENCH TOLERANCE AND SHOULD THE SENAT RENEW ITS REQUEST. THE POSSIBLY SERIOUS SHORTCOMINGS OF SUCH A MINIMALIST APPROACH GIVE US PAUSE, HOWEVER, AND WE WOULD LIKE TO SEE A FURTHER EFFORT TO BROADEN IT. TO PERMIT PROSECUTORS AND JUDGES, BUT NOT COURT-APPOINTED DEFENSE LAWYERS, TO CARRY WEAPONS WOULD BE AN ESPECIALLY GLARING INCONSISTENCY. ALSO, TO ALLOW COURT OFFICIALS TO CARRY PERSONAL WEAPONS (CONSIDERED OF LITTLE REAL UTILITY) WHILE REFUSING PERMISSION FOR SPRINGER TO AUGMENT THE ACTUAL EFFECTIVENESS OF HIS PROFESSIONAL BODYGUARD COTERIE WOULD FLY IN THE FACE

OF LOGIC, AS WELL AS REBUFF THE INDIVIDUAL WHO (APART
FROM EX-JUSTICE SNEATOR BAUMANN) HAS PERSEVERED MOST FOR
ADDITIONAL PROTECTION.GEORGE

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